

Specific reply of the High Level Group on Monitoring Simplification for Beneficiaries of ESI Funds (HLG) to the opinions forwarded by the REFIT platform

REFIT Platform Opinion on the submission the German Chambers of Commerce and Industry (DIHK) on "Reducing Bureaucracy for ERDF/ESF Funding"

General recommendations:

For the current programming period, given the ongoing implementation of the operational programmes, far-reaching legislative changes should be avoided in the interest of legal certainty. Small changes to clarify rules and simplify implementation should be envisaged as soon as possible. Extending the application of the proportionality principle by reference to the nature and scale of the project would reduce the need for controls.

The HLG recommendations follow the same principles as outlined in this REFIT platform general recommendation. The HLG identified a large number of specific recommendations to clarify rules and simplify implementation, which in the opinion of HLG members could be implemented already in the 2014-2020 period, and which are included in 5 reports already approved: on [e-governance](#), [simplified cost options](#) (SCOs), [financial instruments](#), [access to EU funding for SMEs](#) and [gold-plating](#). The 6th report on cross-cutting audit issues is being finalised. Potentially more far-reaching changes will be discussed in the HLG in the context of the discussion about the post-2020 period, which will take place in the first half of 2017.

The proportionality principle by reference to the nature and scale of projects is strongly underlined in particular in the HLG reports on access of SMEs to EU funding (e.g. specific reference to the "Think Small First Principle" - proportionality of administrative and financial burdens for projects involving SMEs) and the report on financial instruments (the process for accessing the financial instrument should be simpler than receiving a grant). In addition, in its report on gold plating, the members of the HLG call for considering an extension of the proportional control with a single audit principle: for example, expanding the scope of Art. 148 of Regulation 1303/2013 to all types of controls, including those conducted by the managing authorities, the certifying authorities, the Court of Auditors and raising the thresholds below which an operation is subject to only one audit. The HLG considers that amounts and risks should be the actual rationale behind multiple controls. In general terms, the members of the High Level Group suggest that the European Commission could better coordinate, in the light of the Better Regulation Initiative, the impact assessments on ESI Funds regulations and delegated acts at European and national level: this overall assessment could help to prevent gold plating, allow to verify the effectiveness of the rules, and lead to a substantial reduction of their volume.

Specific elements of the REFIT platform opinion:

1. Approval processes – single check for the Structural Funds (ERDF and ESF)

The submission by DIHK calls for a single check with final notification and a binding effect for all suppliers of capital/participants. They recognise some progress concerning approval processes on projects with a smaller scope, but they consider that further action is needed when it comes to application processes for projects that are to be financed partially by

several funds. Companies (and other beneficiaries) should not be punished with complicated processes for wanting to take advantage of synergies by applying for financial support from several sources.

The stakeholder group recognises that a thorough approval process by the managing authority does help to prevent problems in later stages of the project and the procedure. However, the approval process is indeed perceived by beneficiaries as being long and complex, mainly due to the requirements of Regulation 1303/2013. The regulation requires managing authorities to check a large number of complex matters (such as the State aid rules, the project area, and whether an applicant is in financial difficulty, Art. 1(4) GBER) for which they have to ask applicants for even more information than they already have to hand in. The stakeholder group recognises also that acquiring funding from multiple funds (multi-funding) is a complex process. The opinion refers also to simplification ideas by the [Committee of the Regions](#) and relevant opinions by the European Economic and Social Committee.

The government group considers analysing the need for the increased number of audits as reasonable and supports it as a long term goal for the next funding period. In the current period, reducing the number of audits and checks might be difficult, as it would require changing the newly introduced system which would make things even more complicated and burdensome. The group does not see any need for additional legislation at EU level and it calls on the Commission to search for possibilities to build upon audits from other bodies, while taking into account the protection of financial interests.

The HLG discussed measures which could be taken to facilitate access to funding for a single project from different funds on several occasions, in particular:

- in its **report on Access to EU Funding for SMEs** the HLG recommends that the Commission should improve the possibility for SMEs to access ESI Funds by promoting good practice examples such single calls for proposals for SMEs that bring together different funding streams and would allow SMEs to apply for an overall investment covering different activities (such as research, training and energy efficiency) and different kinds of support, as well as a helpdesk at regional or national level (or a network of them) that could act as an intermediary and help companies to engage with ESI Funds; the effectiveness of integrated approach to achieve better results was recognised; furthermore, Member States should be encouraged to support application planning of SMEs, by adopting annual calendars for project calls at program level, where relevant; wider coordination between Managing Authorities of different funds at all levels in order to facilitate the setting up of integrated actions and aid schemes, where appropriate, should be encouraged, as well as full use of the tools (such as Enterprise Europe Network, European Business Test Panels, etc.) aimed at collecting the business “point of view” with a view to adopting aid schemes for SMEs, which according to EEN evaluation, synergies are far from optimal; the Commission should promote and explore options for alignment and greater harmonisation of the legal basis and rules between different funds, for instance by establishing a permanent round table with the involvement of different Commission services, Member States and relevant stakeholders / practitioners, supported by a

platform on the interpretation of rules and with a clear workflow for dealing with interpretative questions;

- in its **report on simplified cost options** (SCOs) the HLG recommends the Commission to consider legislative changes to make SCOs currently restricted to certain funds available to all ESI Funds, in particular Article 14 of ESF Regulation (delegated act, 40% flat rate, use of a draft budget) and ETC provisions relating to staff costs for part-time workers and staff costs at a flat rate of up to 20% of the direct costs other than the staff costs, and to provide more off-the-shelf SCOs;
- in its **report on e-governance** the HLG recommends that the Commission should go further in its efforts to facilitate the possibility for Member States to have a common platform or system across the ESI Funds that would provide a consistent approach for beneficiaries to audit issues and information technology;
- in the context of the **report on gold-plating**, the HLG recognises persisting gaps in the harmonisation of rules across all ESI Funds that are relevant for their coherent administration as the factor behind gold-plating practices, and they call for consistent interpretation practice by all Commission DGs.

The HLG members welcomed the proposal of the Commission adopted on 14 September to amend Regulation 1303/2013 in which several proposals facilitating possible combination of ESI Funds, and ESF and ERDF in particular, were included such as extending SCOs, possibility for pro-rata allocation.

The HLG recommendations address specifically also the scope and complexity of required verifications (such as State aid) which the stakeholder group underlined as being the reason for the lengthy approval process. They include:

- in the **report on Access to EU Funding for SMEs** the HLG asks the Commission to promote good practice from outside of the ESI Funds, such as the SME instrument under Horizon 2020, where they can bring a more streamlined and SME-centric approach, such as calls for SMEs with multiple steps that would be a lighter touch in the first phase and use of lump sums, where appropriate and while different objectives of these instruments are taken into account; and to consider what kind of actions could already be taken in the short term to address the State Aid issues such as parity between the rules for direct and shared management programmes for the same sectors,
- in the **report on SCOs** the HLG recommends that the Commission clarifies, if needed by a legislative modification, the way to apply State aid framework in the case of SCOs (for example by modifying Articles 67 and 68 of Regulation 13030/2013 to allow the use of SCOs when operations are related with state aid rules); and that the Commission should review its internal procedures to provide a faster response to managing authorities wishing to make use of Article 14(1) of ESF Regulation and to create a fast-track procedure allowing managing authorities to have certainty on questions regarding the set up and implementation of SCOs; if necessary, an ESI Fund-specific regulation should be implemented, involving Commission auditors and providing binding answers.
- In the **report on gold-plating**, regarding application of State aid rules, the members of the High Level Group recommend that the Commission considers proposing amending the applicable rules where necessary for ESI Funds so that similar projects

are treated in the same way as those funded from EFSI and from programmes directly managed by the Commission such as Horizon 2020; the HLG believes also that auditors at EU and national levels, including the Court of Auditors, should detect redundant processes and procedures as part of their audits and suggest more effective solutions based on good practices.

The adopted HLG recommendations also already include specific recommendations related to audit, directly related to the government group's opinion. In particular, the **report on gold-plating** includes recommendation that the scope of the different levels and threshold of audits should be clearly defined and clarified in order to avoid multiple and disproportional controls on the same operation (extension of the proportional control with a single audit principle: for example, expanding the scope of Art. 148 of Regulation 1303/2013 to all types of controls, including those conducted by the managing authorities, the certifying authorities, the Court of Auditors and raising the thresholds below which an operation is subject to only one audit). Amounts and risks should be the actual rationale behind multiple controls. More comprehensive set of recommendation will be included in the **report on cross-cutting audit issues** which is being finalised.

2. Summary report – one report centrally compiled per Member State; participation of stakeholders in preparation

The submission of DIHK asks for a centrally compiled annual implementation report for the operational programmes per member state. They want the economic and social partners to be invited to participate in the process of writing the summary, also in order to ensure that the bureaucratic burden that companies face is taken into account besides the interests of the administration.

The stakeholder group asks the Commission to review all reporting requirements to identify what is needed to measure the progress and success of the funds and eliminate duplication (or near duplication) so data is collected and supplied only once. The stakeholder group also suggests to remove the character limits (limits on length of the report) imposed on managing authorities preparing monitoring reports.

The government group does not support the suggestion of compiled Member State reports but supports to continue with annual reporting by programme and reporting by Member State in 2017 and 2019. It considers that compiling a central report would not lead to a reduction of bureaucracy, but rather increase the coordination efforts. It would not unburden beneficiaries, but burden administrations. Moreover, in some Member States it might not be possible to compile one single implementation report for all programmes due to constitutional constraints. The government group indicates that economic and social partners are involved in the preparation of annual implementation reports as members of the monitoring committees.

The HLG addresses the issue of monitoring requirements mostly in the context of the **report on gold plating**. In order to ensure that monitoring and evaluation requirements are focused on the information really needed to determine the performance and results of the

programmes, and to avoid adding extra reporting burdens on the beneficiaries, the members of the HLG recommend in particular that:

- the Commission should review the reporting requirements and the indicators in the fund-specific regulations;
- those elements that do not reflect a result-driven approach should be deleted or frequency of collection of such data should be reduced to avoid double reporting;
- reporting mechanisms between ERDF and ESF should be aligned;
- the number of common indicators required for ESF operations implemented under specific thematic objectives and investment priorities should also be reduced as a step forward in reducing administrative burden at project level.

The HLG considers that the Commission and Member States should not impose additional reporting requirements on beneficiaries but should make the reporting easier with the use of IT systems. For ESF projects, national authorities should make the most of national administrative data (especially national registers) to collect the same type of information from the participants for different purposes (inter-institutional cooperation to exchange data on participants).

Application of partnership principle was discussed by the HLG in a broader context, not just in relation to preparation of monitoring reports. In the **report on access to funding for SMEs** the HLG members strongly encourage Member States to apply the "Think Small First" principle to the design and implementation of the project cycle for SMEs, to adopt specific simplification measures at national and regional level and proactively include stakeholders in those processes. There is a mixed approach across Member States and regions to partnership and providing support to SMEs to navigate the administrative channels of ESI Funds, recognising effective stakeholders' involvement in the definition of aid schemes is a good practice.

HLG suggests in particular that the Member States and managing authorities should:

- make the implementation of the Small Business act mandatory at national and regional level under ESI Funds, with specific reference to the "Only Once Principle" (on information request and audit) and the "Think Small First Principle" (proportionality of administrative and financial burdens for projects involving SMEs);
- further promote the dissemination of SMEs Test on programming acts and calls under ESI Funds. By assessing the costs and benefits of policy options, it helps implement the 'Think Small Principle' and improve the business environment;
- promote wider coordination between Managing Authorities of different funds at all levels in order to facilitate the setting up of integrated actions and aid schemes, where appropriate;
- make full use of the tools (such as Enterprise Europe Network, European Business Test Panels, etc.) aimed at collecting the business "point of view" with a view to adopting aid schemes for SMEs. According to EEN evaluation, synergies are far from optimal, and there is room for improvement.

3. Publicity requirements.

The DIHK submission asks for applying of proportionality principle as regards which information has to be made available for Structural Funds projects.

The stakeholder group considers that the need to publicise Cohesion policy should be met in a flexible and user-friendly way. Beneficiaries and managing authorities now spend a lot of time determining and reviewing, for example, the size of logos instead of the content of the projects. The requirement which asks for an A3 printed poster without any option to use alternative modern multi-media platforms is met with significant resistance from beneficiaries. The requirements for A3 poster, logos on websites for organisations with their own clear branding in place cause problems and do not reflect technological realities such as increased use of smart phones and small displays to access information. EU funding might be a small part of all public funding for projects and should be treated proportionately. It seems that the documents and information the authorities have to send to the Commission do not necessarily reflect the information needs of the public, but only that of the Commission. The government group considers that the related documentation and reporting requirements are in many cases heavy burdens. They should not go beyond the real needs of the relevant check and the needs of transparency of the EU budget spending.

The HLG has not dealt separately with the publicity requirements. However, the issue of proportionality is addressed in a horizontal way in each of its reports and the general principle does apply to publicity as well.

In the **report on e-governance**, the HLG members note that efficient e-Governance platforms could give Member States and managing authorities the possibility to extract, in an appropriate way, part of the available data to set up “Open Data portals”, which may allow public scrutiny of who benefits from resources and to increase transparency and the focus on results of the policy.

4. Gold-plating.

The DIHK submission asks for avoiding gold-plating through further synthesis and interim reports.

The stakeholder group considers that a lack of trust between different administrative levels is a root cause / symptom of complexity and gold-plating, as Member States and regions try to ensure legal certainty by applying additional rules. A fundamental review is needed of the understanding of the EU budgetary authorities (Council and European Parliament) and of the Court of Auditors on the priorities of the EU budget in view of achieving results in a system of shared management. Responsibilities must be more clearly defined and the applicability of only one set of legislation (national or European) must be ensured.

The government group considers that reporting requirements do not necessarily constitute “gold plating” – even if they may be burdensome. There may be good reasons for certain synthesis and interim reports but those reports should be reduced to the necessary minimum. This should be checked on a case by case basis. It calls on the Commission to refrain from establishing further reporting requirements.

Gold-plating is addressed in the very comprehensive way in the [HLG report on gold plating](#). The HLG members share the assessment of the stakeholder group that gold-plating practices

are fuelled by an atmosphere of distrust across the system of ESIF management and by a fear of non-compliance due to legal uncertainty. The issue was also discussed in detail in the context of preparation of the report on cross-cutting audit issues, which is being finalised. The option for a more fundamental review will be a part of discussion about post-2020 rules which are planned for the first half of 2017.

As far as reporting is concerned, the members of the HLG consider that the Commission and Member States should not impose additional reporting requirements on beneficiaries but should make the reporting easier with the use of IT systems favoured by the intensified efforts on promoting e-Governance at all levels. Those elements of monitoring which do not reflect a result-driven approach should be deleted or frequency of collection of such data should be reduced to avoid double reporting.

5. Accelerating application procedure.

The DIHK submission calls for accelerating the application procedures, as these are significantly more complex compared to programmes without EU co-financing.

The stakeholder group believes that simplification of the implementation of Cohesion policy would automatically result in shorter application procedures, and refers to general and specific simplification proposals by the Committee of the Regions and EESC.

The government group considers that shortening application procedures is fine but there is no “one size fits all” approach. Procedures in programmes without EU co-financing (i.e. only financed on national/regional level) can hardly be transferred 1:1 to programs with EU co-financing.

The HLG in its **report on gold-plating** asks the Commission to help the Member States simplify the application procedures/forms for beneficiaries by identifying and promoting good examples of efficient application procedures. Members of the High Level Group recognise the efforts demonstrated by a number of Member States to make best use of the existing provisions (e.g. simplified designation and e-cohesion) in reducing administrative burden and preventing delays in the launch of implementation. The HLG recommends that auditors at EU and national levels, including the Court of Auditors, should detect redundant processes and procedures as part of their audits and suggest more effective solutions based on good practices. As regards public procurement, the HLG asks the Commission to ensure that the requirements for projects funded by ESI Funds do not go beyond what is required for the projects supported from other sources.

This issue is also relevant in the context of the **report on e-governance**. The members of the High Level Group recognise the potential of e-Governance to reduce administrative burden for all stakeholders and, in particular, for beneficiaries, as well as the good progress made in this direction by Member States. The report encourages Member States and managing authorities to approach the organisational and business change that might be required by the introduction of e-Governance initiatives in a constructive manner. Developing a business process approach, accepting IT as a core part of the business, accurately foreseeing the need for guidance to the final users, the beneficiaries, and appropriately communicating the goal

of the e-Governance were identified as good practice in this direction. Recommendations for the Commission include considering widening the possibility to use technical assistance of all ESI Funds to facilitate the implementation of e-governance e.g. allowing also the use of EAFRD for supporting also other interventions linked to IT development, such as guidance and training which are necessary for the good functioning of the system.

In the **report on access to EU funding for SMEs**, the HLG notes that the cost of completing the necessary information for applications, as well as layered controls dissuaded SMEs from applying as the ESI Funds did not always "think small first" (as per Small Business Act). The HLG recommends promoting simplification of eligibility rules at European, national and regional level, as well as simplification/harmonization of application forms. The group asks Member States to support application planning of SMEs, by adopting annual calendars for project calls at program level, where relevant. Rather than "one size fits all", the definition of aid schemes tailor-made for the specific needs of SMEs in a given region, with effective stakeholders' involvement in the definition of such schemes is recognised by the HLG as good practice.